

Mr Powell
Mr Conner
LIE 10

Re: HIV LITIGATION
ADDITIONAL P.I.I. DOCUMENTS

A D V I C E

1. I have looked at the additional documents provided to me and agree that, except as set out below, the documents are correctly included within the claim for public interest immunity and fall within the categories set out in the folders in which each document is contained.

2. So far as Category 1(1) and 1(2) are concerned, there are a few documents concerning Hepatitis B vaccination, including a file relating to Merck, which should be included in the claim but marked as subject-matter (b)(i) and therefore not produced for inspection by the Judge. The remainder of Category 1 and Category 2 should be produced for inspection by the Judge. I have not broken them down to the different classes of subject-matter (a) and (b) in view of the shortness of time available, but if this can be done by way of annotation to the lists, within the next 48 hours, it would be helpful.

3. All the Category 3 documents appear to be properly classified. So far as Category 4(1) is concerned, I have the following comments:-

(a) the Minute of 12th May 1981 which I have flagged appears to be the report of a meeting rather than briefing for it and therefore does not appear to be something for which we should claim public interest immunity;

(b) there are within this file a couple of letters such as that of 28th April 1981 and 3rd April 1981 (both flagged) which, being the actual published documents, are not covered by privilege. If these are the only copies of those documents, rather than additional copies on this briefing file, they should be disclosed.

4. So far as Category 4(2) is concerned, clearly the correspondence between Sir Gerald Gerard Vaughan and Barney Heyhoe in October 1985 should be disclosed, but I agree that the draft answers and briefings leading up to the answer should not be disclosed.

5. So far as all these documents are concerned, I consider that the appropriate course is to add the new lists (amended in the light of my comments above) to the original lists in each category and then for the Permanent Secretary to sign an amended certificate as soon as conveniently possible, including all those documents within the category for which privilege is claimed.

6. However, because of the urgency of getting these documents to the Judge, they should be added to those copied and made available (insofar as they fall within Category 1 or Category 2).

GRO-C

JUSTIN FENWICK

2 Crown Office Row,
Temple,
London, EC4.

October 1, 1990.